

BORA LASKIN LAW LIBRARY



3 1761 10631821 5

CONSTITUTIONAL LAW  
CASES AND MATERIALS

VOLUME I

Patrick Macklem  
Faculty of Law  
University of Toronto

1988-89

Prepared with the assistance of Tim Lewis

4482

A1

M32

1988

v.1

LAW LIBRARY

OCT 3 1988

FACULTY OF LAW  
UNIVERSITY OF TORONTO

FACULTY OF LAW LIBRARY  
UNIVERSITY OF TORONTO

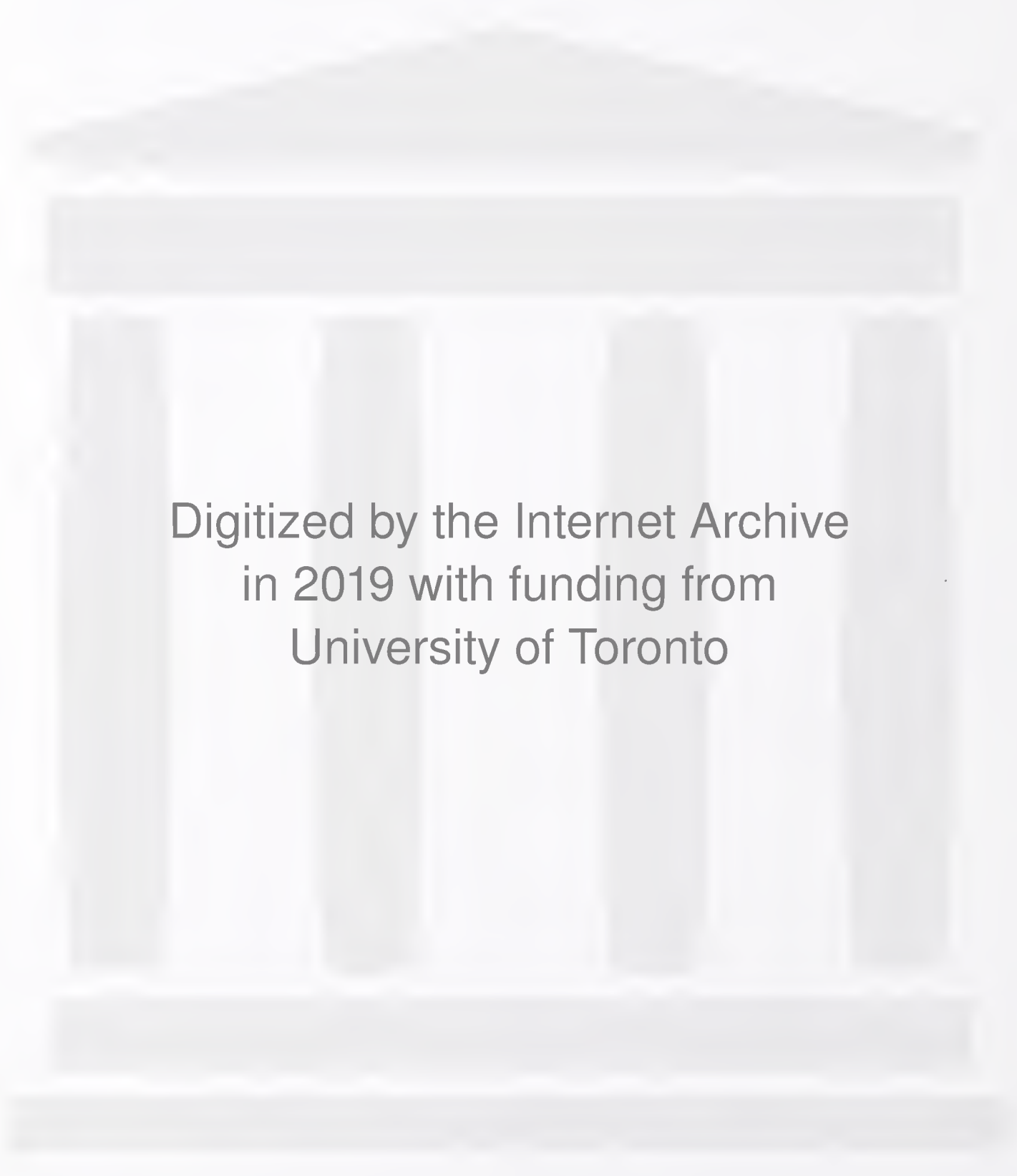
CONSTITUTIONAL LAW  
CASES AND MATERIALS

VOLUME I

Patrick Macklem  
Faculty of Law  
University of Toronto

1988-89

Prepared with the assistance of Tim Lewis



Digitized by the Internet Archive  
in 2019 with funding from  
University of Toronto

[https://archive.org/details/constitutionalla01mack\\_0](https://archive.org/details/constitutionalla01mack_0)

VOLUME I  
TABLE OF CONTENTS

I.	<u>INTRODUCTION</u>	<u>Page</u>
	<u>A.G. Man. v. A.G. Canada</u> (Reference Re Resolution to Amend the Constitution of Canada), [1981] 1 S.C.R. 753	1
	The Meech Lake Agreement	5
II.	<u>CONSTITUTIONAL ARGUMENT</u>	
	P. Bobbitt, <u>Constitutional Fate</u> (1982), ch. 1	6
	P. Brest, "Constitutional Interpretation," 1 <u>Encyclopedia of the American Constitution</u> (1986), 464.	10
	J. Frug, "Argument as Character" (1988), 40 Stan. L. Rev. 901-14	17
	<u>A.G. Man. v. A.G. Canada</u> (Reference Re Resolution to Amend the Constitution of Canada), [1981] 1 S.C.R. 753	24
III.	<u>THE ORIGINS OF MODERN CONSTITUTIONAL LAW</u>	
1.	<u>Pre-Confederation</u>	
	B. Slattery, "The Independence of Canada" (1983), 5 Supreme Court L. Rev. 369	37
	M. Jackson, "The Articulation of Native Rights in Canadian Law" (1984), 18 U.B.C.L. Rev. 255.	41
	D. Verney, <u>Three Civilizations, Two Cultures, One State</u> (1986), ch. 6.	47
2.	<u>Pictures of Confederation</u>	
	A.I. Silver, <u>The French-Canadian Idea of Confederation</u> (1986), ch.2.	59
	E. Black, <u>Divided Loyalties</u> (1975), ch. 1	69
	J. Smith, "The Origins of Judicial Review in Canada" (1983), 16 Can. J. Pol. Sci. 115.	84

3. <u>Federalism</u>	<u>Page</u>
(a) <u>The Privy Council: 1880-1900</u>	
<u>Citizens Insurance Co. v. Parsons</u> (1881-82), 7 A.C. 96 (P.C.)	92
<u>Russell v. The Queen</u> (1882), 7 A.C. 829 (P.C.)	99
<u>Hodge v. The Queen</u> (1883), 9 A.C. 117 (P.C.)	106
<u>A.G. Ont. v. A.G. Canada</u> (Local Prohibition Case), [1896] A.C. 348 (P.C.)	112
(b) <u>The Privy Council: 1900-1930</u>	
<u>A.G. Canada v. A.G. Alta.</u> (Insurance Reference), [1916] 1 A.C. 588 (P.C.)	115
<u>In Re Board of Commerce Act</u> , [1922] 1 A.C. 191 (P.C.)	118
<u>Fort Francis Pulp &amp; Power Co. v. Manitoba Free Press Co.</u> , [1923] A.C. 695 (P.C.)	124
<u>Toronto Electric Commissioners v. Snider</u> , [1925] A.C. 396 (P.C.)	132
<u>The King v. Eastern Terminal Elevator Co.</u> , [1925] S.C.R. 543	141
<u>Edwards v. A.G. Canada</u> , [1930] A.C. 124 (P.C.)	150
<u>Proprietary Articles Trade Association v. A.G. Canada</u> , [1931] A.C. 310 (P.C.)	156
V.C. MacDonald, "Judicial Interpretation of the Canadian Constitution" [1935-36] U.T.L.J. 1	161
(c) <u>The New Deal</u>	
<u>A.G. Canada v. A.G. Ont.</u> (Labour Conventions), [1937] A.C. 326 (P.C.)	171
<u>A.G. Canada v. A.G. Ont.</u> (Unemployment Insurance), [1937] A.C. 355 (P.C.)	177
<u>A.G.B.C. v. A.G. Canada</u> (Natural Products Marketing), [1937] A.C. 377 (P.C.)	180



	<u>Page</u>
(d) <u>Commentary and Critique</u>	
J.R. Mallory, "The Courts and the Sovereignty of the Canadian Parliament" (1944), 10 Can.J. Econ. & Pol. Sci. 166	184
V.C. MacDonald, "The Privy Council and the Canadian Constitution" (1951), 29 Can. Bar Rev. 1021	195
L-P. Pigeon, "The Meaning of Provincial Autonomy" (1951), 29 Can. Bar Rev. 1126	203
4. <u>Individual Rights</u>	
(a) <u>The "Implied" Bill of Rights</u>	
<u>Initiative and Referendum Reference</u> , [1919] A.C. 945 (P.C.)	210
<u>Reference Re Alberta Statutes</u> , [1938] S.C.R. 100	217
<u>Saumur v. City of Quebec</u> , [1953] 2 S.C.R. 299	224
<u>Switzman v. Elbling</u> , [1957] S.C.R. 285	253
<u>Roncarelli v. Duplessis</u> , [1959] S.C.R. 121	266
<u>Oil, Chemical and Atomic Workers v. Imperial Oil</u> , [1963] S.C.R. 584	285
(b) <u>The Canadian Bill of Rights</u>	
<u>Robertson &amp; Rosetanni v. The Queen</u> , [1963] S.C.R. 651	298
<u>R. v. Drybones</u> , [1970] S.C.R. 282	305
<u>A.G. Canada v. Lavell</u> , [1974] S.C.R. 1349	317
<u>Bliss v. A.G. Canada</u> , [1979] 1 S.C.R. 183	334
5. <u>Collective Rights</u>	
(a) <u>Minority Education</u>	
<u>City of Winnipeg v. Barrett</u> (1891), 19 S.C.R. 374	340
<u>City of Winnipeg v. Barrett</u> , [1892] A.C. 455 (P.C.)	350
<u>Brophy v. A.G. Manitoba</u> , [1895] A.C. 202 (P.C.)	357

	<u>Page</u>
<u>Ottawa Separate School Trustees v. Mackell,</u> <u>[1917] A.C. 62 (P.C.)</u>	369
<u>Tiny Roman Catholic Separate School Trustees v. The King,</u> <u>[1928] A.C. 363</u>	376
(b) <u>Aboriginal Rights</u>	
<u>St. Catharines Milling and Lumber Co. v. The Queen</u> <u>(1887), 13 S.C.R. 577</u>	391